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ATTORNEYS FOR USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
 USA COMMERCIAL MORTGAGE COMPANY,
 USA CAPITAL REALTY ADVISORS, LLC,
 USA CAPITAL DIVERSIFIED TRUST DEED
 FUND, LLC,
 USA CAPITAL FIRST TRUST DEED FUND,
 LLC,
 USA SECURITIES, LLC,
 Debtors.

Case No. BK-S-06-10725 GWZ
 Case No. BK-S-06-10726 GWZ
 Case No. BK-S-06-10727 GWZ
 Case No. BK-S-06-10728 GWZ
 Case No. BK-S-06-10729 GWZ

Chapter Number: 11

Jointly Administered Under
 Case No. BK-S-06-10725 GWZ

Affects:
☐ All Debtors
☐ USA Commercial Mortgage Company
☐ USA Securities, LLC
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed Fund, LLC
☐ USA First Trust Deed Fund, LLC

Hearing Date: February 23, 2017

Hearing Time: 10:00 a.m.

Hearing Location:
United States Bankruptcy Court
C. Clifton Young Federal Building
300 Booth Street, Fifth Floor
Reno, Nevada 89509

**DECLARATION OF MICHAEL TUCKER IN SUPPORT OF THE POST-EFFECTIVE
 DATE USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC's FINAL REPORT
 AND MOTION FOR ENTRY OF FINAL DECREE CLOSING CHAPTER 11 CASE**

I, Michael Tucker, hereby declare under penalty of perjury:

1. I am the administrator of Post-Effective Date USA Capital Diversified Trust Deed Fund, LLC ("Diversified").

2. I have reviewed the *Final Report and Motion for Entry of Final Decree Closing*

1 *Chapter 11 Case* (the “Motion”) filed by Diversified in this matter. I affirm that, to the best of
 2 my knowledge, the facts contained in the Motion are true and accurate. I make this declaration in
 3 support of the Motion and all definitions in the Motion are incorporated herein by reference.

4 3. The matters set forth in this Declaration are of my own personal knowledge and, if
 5 called upon to do so, I could and would competently testify thereto.

6 4. On April 13, 2006 (“Petition Date”), Diversified filed a voluntary petition for
 7 relief under Chapter 11 of the Bankruptcy Code, commencing the Diversified Bankruptcy Case.

8 5. On May 9, 2006, the Court entered an Order for the Joint Administration of the
 9 Diversified Bankruptcy Case with, among others, the USA Commercial Mortgage Company
 10 bankruptcy case, Case No. 06-10725 (the “USACM Bankruptcy Case”). [Diversified Bankruptcy
 11 Case, ECF No. 82.]

12 6. On December 8, 2006, Diversified filed the “Plan Documents Supplement and
 13 Notice of Disclosures by the Official Committee of Equity Security Holders of USA Capital
 14 Diversified Trust Deed Fund, LLC, Pursuant to 11 U.S.C. §§ 1129(a)(4) and (5)” (the
 15 “Diversified Supplement”) [ECF No. 2001], which attached the Amended and Restated Operating
 16 Agreement of Diversified (the “Diversified Operating Agreement”) and provided for the
 17 appointment of Michael Tucker as Diversified’s administrator.

18 7. On January 8, 2007, the Court entered an order (“Confirmation Order”) confirming
 19 the Plan. [USACM Bankruptcy Case, ECF No. 2376.]

20 8. The Plan’s Effective Date, as defined therein, occurred on March 12, 2007.
 21 [USACM Bankruptcy Case, ECF No. 1799, § I(A)(64).]

22 9. Pursuant to § II(C)(3)(e) of the Plan, as of the Effective Date, all pre-petition
 23 equity interests in Diversified retained those interests. Pursuant to the Diversified Supplement,
 24 Michael Tucker was suggested as the Diversified Administrator and the DTDF Post-Effective
 25 Date Committee was to be made up of Robert Hardy, Charles O. Nichols, Jerry T. McGimsey,
 26 and Robert Worthen. [See USACM Bankruptcy Case, ECF No. 2001, ¶¶ 2, 7.]

27 10. Pursuant to ¶ 31 of the Confirmation Order, I was approved to serve as
 28 Diversified’s Administrator.

11. Pursuant to § IV(D)(2) of the Plan, all of the DTDF Estate (as defined therein) remained with Diversified to be distributed in accordance with the Plan.

12. Pursuant to ¶ 70 of the Confirmation Order, Diversified has and is entitled to act on behalf of itself and the DTDF Estate.

13. Pursuant to Section IV(B)(1) of the Plan, holders of unclassified Allowed Administrative Expense Claims (as defined therein) were paid in full in cash on later of (i) the Effective Date or (ii) the date the Administrative Expense Claim (as defined therein) became an Allowed Administrative Expense Claim. All quarterly fees through and including the Fourth Quarter 2016 have been paid to the U.S. Trustee's Office, no further payments are due to allowed Administrative Expense Claims under the Plan.

14. Class C-1 of the Plan is made up of the secured tax claims. These tax claims were paid in full according to the Plan.

15. Class C-2 of the Plan consists of any other secured claims. These secured claims have been fully compensated under the Plan through payment in full of their claims or return of the property securing the secured claim.

16. Class C-3 of the Plan consists of priority unsecured claims. Pursuant to § IV(C)(3)(c) of the Plan, the holders of allowed Class C-3 claims were paid on the Effective Date. Diversified has no further payments or obligations due to Class C-3 under the Plan.

17. Class C-4 of the Plan is made up of the general unsecured claims. Pursuant to § IV(C)(3)(d) of the Plan, the holders of allowed Class C-4 claims were paid on the Effective Date with postpetition interest. Diversified has no further payments or obligations due to Class C-4 under the Plan.

18. Class C-5 of the Plan constitutes the Allowed Equity Interests (as defined therein) in Diversified. Pursuant to § IV(C)(3)(e) of the Plan, all equity interests in Diversified retained their interests in Diversified and were to receive: (a) all funds left over after payment of all Allowed Unclassified Claims; Allowed Class C-1, C-2, C-3, C-4 Claims; and the post-Effective Date costs, fees and expenses for implementation of the Plan, including costs, fees, and expenses incurred by Diversified under the Diversified Operating Agreement; (b) a pro-rata share of the

assets of Diversified after the Effective Date; and (c) a pro rata share of USACM Trust's recoveries on Diversified's allowed claim against USACM. All of the assets of Diversified have been collected and liquidated. All distributions owing to the members of Class C-5 under the Plan have been made as of December 30, 2016 and Diversified has no further payments or obligations due to Class C-5.

19. To date, all pending DTDF Litigation Claims have been settled and/or dismissed upon the request of Diversified. All net proceeds from Diversified's settlement of the DTDF Litigation Claims have been added to the funds distributed in accordance with the Plan.

20. All of the DTDF Litigation Claims have been resolved or fully litigated, which means that all motions, contested matters and adversary proceedings in the Diversified Bankruptcy Case have been fully and finally resolved.

21. There are no claims litigation matters that remain outstanding.

22. All of Diversified's assets have been liquidated.

23. Diversified has made all payments and transfers due under the Plan.

24. Upon information and belief, as of December 30, 2016, Diversified is current on its submission of post-confirmation quarterly reports. Additionally, as of December 30, 2016, Diversified is current on its payment of quarterly fees to the United States Trustee's Office, including the Fourth Quarter 2016 payment.

25. Prior to December 31, 2016, Diversified made the final distributions to equity holders, wrapped up operations, and filed its Certificate of Dissolution with the Nevada Secretary of State in accordance with ¶ 70 of the Confirmation Order, the Diversified Operating Agreement, and applicable law.

26. Diversified has completed all obligations under the Plan, and has no further distributions to make under the Plan.

27. The receipts and disbursements for Diversified are as follows:

CASH AND RECEIPTS

Beginning Cash Balance	\$	1,303,271
Receipts		45,020,235
TOTAL BEGINNING CASH AND RECEIPTS	\$	46,323,506

DISBURSEMENTS

Member Distributions	\$	29,829,196
Operating and Other Administrative Expenses		<u>16,494,311</u>
TOTAL DISBURSEMENTS	\$	46,323,506

28. The only anticipated open issue that Diversified may have is that there is a potential for some distributions made to Diversified's shareholders may go unclaimed. If that were to occur, Diversified would need to file the unclaimed funds report with the Court and turn over the unclaimed funds. Diversified has requested that the Court grant permission for me to endorse any unclaimed funds over to the Court and to file an unclaimed funds report with the Court, if necessary.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 4th day of January, 2017.



Michael Tucker